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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
11 AT TACOMA

12 STEPHEN KNIGHT LEWIS,

13 Plaintiff,

14 v.

15 CITY OF LAKEWOOD, *et al.*,

16 Defendants.

17 No. 08-5589FDB/JRC

18 ORDER ON PENDING MOTIONS

19 This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned
20 Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local
21 Magistrate Judges' Rules MJR 1, MJR 3, and MJR 4.

22 Before the court are plaintiff's motions for appointment of counsel and leave of court to
23 amend the complaint (Dkt # 16 and 17). The City of Lakewood opposes appointment of counsel,
24 and opposes in part the amendment of the complaint (Dkt # 19 and 20). Lakewood does not
25 oppose adding two named police officers, but does oppose adding the Police Chief to this action
26 (Dkt # 20). The Court has examined the motions and the responses.

ORDER - 1

1 Motion to Appoint Counsel. There is no right to have counsel appointed in cases brought
2 under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(e) (1), can request counsel
3 to represent a party, the court may do so only in exceptional circumstances. Wilborn v.
4 Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th
5 Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional
6 circumstances requires an evaluation of both the likelihood of success on the merits and the
7 ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues
8 involved. Wilborn, 789 F.2d at 1331.

10 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. See
11 proposed amended, Complaint (Dkt # 16). The likelihood of success on the merits does not
12 favor appointment of counsel at this point in time. Accordingly, Plaintiff's Motion to Appoint
13 Counsel (Dkt. # 17) is **DENIED**.

14 Motion to Amend the Complaint. Plaintiff names the two police officers he claims acted
15 improperly when he was arrested (Dkt. # 16, proposed complaint). Lakewood does not oppose
16 adding these defendants to the action (Dkt. # 20). Plaintiff also names the City of Lakewood
17 Chief of Police, but provides no facts showing the Police Chief was involved in the incidents that
18 give rise to this action. Lakewood opposes the addition of the Police Chief (Dkt. # 20). The
19 objection is well taken. The motion to amend the complaint is GRANTED IN PART AND
20 DENIED IN PART. Plaintiff may submit a new amended complaint naming additional
21 defendants Dave Butts and Nick McClellan, but shall not name the Lakewood City Chief of
22 Police. Plaintiff will have until May 29, 2009, to provide service documents for Officers Butts
23 and McClellan.

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ORDER - 2

1 The clerk of court is directed to send copies of this order to Plaintiff. The clerk's office
2 should remove Dkt. # 16 and 17 from the Court's calendar. Further, the clerk's office is directed
3 to note May 29, 2009, as the due date for service documents.

DATED this 28th day of April, 2009.

J. Ward (matua)

J. Richard Creature
United States Magistrate Judge